

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

CLIFTON LAMAR WILLIAMS,
Petitioner,

-VS-

LORIE DAVIS, Director,
Texas Department of Criminal Justice,
Correctional Institutions
Division,
Respondent.



CIVIL NO. 1:09-cv-271

****DEATH PENALTY CASE****

APPOINTED COUNSELS' ADVISORY TO THE COURT

Mr. Williams is Scheduled For Execution June 21, 2018

COME NOW, Seth Kretzer and James W. Volberding, appointed counsel, and advise the Court as follows.

The Hogan Lovell attorneys who filed appearances today, and Professor Lee Kovarsky, are experienced and capable attorneys. They will represent Mr. Williams well. Likewise, we are willing and able to present Mr. Williams to the best of our ability.

As we have already informed this Court, the Fifth Circuit, and the state district court, we have begun working on a successor writ. The issue will concern the application of the Supreme Court's decision last year in *Bobby James Moore v. Texas*, ___ U.S. ___, 137 S. Ct. 1039 (2017). The Supreme Court rejected the Texas Court of Criminal Appeals *Briseño* factors for evaluating mental retardation, the same factors applied to Clifton Williams in 270 S.W.3d 112; 2008 Tex. Crim. App. LEXIS 1446 (Tex. Crim. App. 2008).

Counsel indicates that we have not seen Mr. Williams since 2015. Actually, Mr. Kretzer, Mr. Volberding, and a paralegal visited Williams ten days ago, April 13. We discussed this with the Hogan Lovells associate, Catherine Bratic, last week, April 18 and 20, in a series of phone calls.

It is true we have had no reason to visit Williams since 2015, as nothing had happened since 2015 in his federal case in which we were involved. Another state court appointed lawyer, Doug Parks, also represented Williams during his state successor writ processing. It is simply untrue that Williams was ever abandoned or left without counsel. The Texas Court of Criminal Appeals denied his successor writ but the state district court did not set an execution date until last month.

We welcome the opportunity to work with Counsel and Professor Kovarsky. Their talent and experience would no doubt contribute significantly to the briefing we deliver to this Court, the Fifth Circuit, the state district court and the Texas Court of Criminal Appeals, and in the clemency petition to the Governor and Texas Board of Pardons and Parole. We have a common interest in Mr. Williams.

Nevertheless, we do not understand why Hogan Lovells lists other cases in which we have appeared. Most of those cases are closed. For example, the *Kibert* appeal was dismissed on the Government's motion in the Fifth Circuit nearly a year ago. *Perez-Ceballos* was tried in Fall 2017 and her appellate brief is already on file in the Fifth Circuit. And, of course, "Attorney Admissions" is not a case but rather a field one fills in when being admitted to the federal bar in each district.

With regards to the case set for execution on Wednesday of this week (Erick Davila), Mr. Kretzer appeared before the Supreme Court of the United States on April 24, 2017, and argued *Davila v. Davis*, obtaining four votes of Justices in favor of remand. 137 S. Ct. 2058 (2017).

If Clifton Williams wants Hogan Lovells and Professor Kovarsky to represent him, it is acceptable to us for them to do so. If the Court wishes for us to continue representation, we are willing and able to do so. What we do not wish, is to do our best for Mr. Williams while defending our work against Hogan Lovells and Professor Kovarsky at each level. If the Court orders us to remain as Counsel, we respectfully ask Hogan Lovells and Professor Kovarsky to work together with us in Mr. Williams's best interest.

Respectfully submitted this 23rd day of April, 2018.

/s/ Seth Kretzer

James W. Volberding
Volberding Law Firm
110 North College Ave
Suite 1850
Tyler, TX 75702
[Tel.] (903) 597-6622
[Fax] (903) 597-5522

Seth Kretzer
Law Offices of Seth Kretzer
The Lyric Center
440 Louisiana Street; Suite 1440
Houston, TX 77002
[Tel.] (713) 775-3050
[Fax] (713) 929-2019

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2018, I electronically filed the foregoing document with the Clerk of the Court for the U.S. District Court, Eastern District of Texas. The ECF system sent a "Notice of Electronic Filing" to counsel for Respondent:

All Counsel of Record

Ms. Fredericka Searle Sargent
Office of the Attorney General
300 W. 15th Street
Austin, Texas 78701
fredericka.sargent@oag.state.tx.us

Mr. Clifton L. Williams
Inmate No. 00999515

Texas Dept. of Criminal Justice - ID
Polunsky Unit, Death Row
3872 F.M. 350 South
Livingston, Texas 77351

/s/ Seth Kretzer
Seth Kretzer